

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

|                           |   |                      |
|---------------------------|---|----------------------|
| WILLIAM JONES,            | ) |                      |
|                           | ) |                      |
| Plaintiff,                | ) |                      |
|                           | ) |                      |
| v.                        | ) | No. 4:20-CV-1652 DDN |
|                           | ) |                      |
| UNITED STATES OF AMERICA, | ) |                      |
|                           | ) |                      |
| Defendant.                | ) |                      |

**OPINION, MEMORANDUM AND ORDER**

This matter comes before the Court on the motion of plaintiff William Jones, an inmate at St. Louis City Justice Center, for leave to commence this action without payment of the required filing fee. For the reasons stated below, the Court finds that plaintiff does not have sufficient funds to pay the entire filing fee and will assess an initial partial filing fee of \$1.00. *See* 28 U.S.C. § 1915(b)(1). Furthermore, based upon a review of the complaint, the Court finds that the complaint should be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B).

**28 U.S.C. § 1915(b)(1)**

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly

payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. *Id.*

Plaintiff has not submitted a prison account statement. As a result, the Court will require plaintiff to pay an initial partial filing fee of \$1.00. *See Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997) (when a prisoner is unable to provide the Court with a certified copy of his prison account statement, the Court should assess an amount “that is reasonable, based on whatever information the court has about the prisoner’s finances.”). If plaintiff is unable to pay the initial partial filing fee, he must submit a copy of his prison account statement in support of his claim.

### **Legal Standard on Initial Review**

Under 28 U.S.C. § 1915(e)(2), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim, a plaintiff must demonstrate a plausible claim for relief, which is more than a “mere possibility of misconduct.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* at 678. Determining whether a complaint states a plausible claim for relief is a context-specific task that requires the reviewing court to draw upon judicial experience and common sense. *Id.* at 679. The court must “accept as true the facts alleged, but not legal conclusions or threadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Barton v. Taber*, 820 F.3d 958, 964 (8<sup>th</sup> Cir. 2016). *See also Brown v. Green Tree Servicing LLC*, 820 F.3d 371, 372-73 (8<sup>th</sup> Cir. 2016) (stating that court must accept factual allegations in complaint as true, but is not required to “accept as true any legal conclusion couched as a factual allegation”).

When reviewing a pro se complaint under § 1915(e)(2), the Court must give it the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). A “liberal construction” means that if the essence of an allegation is discernible, the district court should construe the plaintiff’s complaint in a way that permits his or her claim to be considered within the proper legal framework. *Solomon v. Petray*, 795 F.3d 777, 787 (8<sup>th</sup> Cir. 2015). However, even pro se complaints are required to allege facts which, if true, state a claim for relief as a matter of law. *Martin v. Aubuchon*, 623 F.2d 1282, 1286 (8<sup>th</sup> Cir. 1980). *See also Stone v. Harry*, 364 F.3d 912, 914-15 (8<sup>th</sup> Cir. 2004) (stating that federal courts are not required to “assume facts that are not alleged, just because an additional factual allegation would have formed a stronger complaint”). In addition, affording a pro se complaint the benefit of a liberal construction does not mean that procedural rules in ordinary civil litigation must be interpreted so as to excuse mistakes by those who proceed without counsel. *See McNeil v. United States*, 508 U.S. 106, 113 (1993).

### **The Complaint**

Plaintiff, William Jones, an inmate at St. Louis City Justice Center, brings this action pursuant to 42 U.S.C. § 1983. Plaintiff names as the sole defendant in this action the United States of America.<sup>1</sup>

Plaintiff alleges that he has a “bullet lodged” in his skull. He states that the City of St. Louis Division of Corrections “is not giving [him] medical help.” However, plaintiff fails to articulate exactly what medical help he has sought from the Division of Corrections.

Plaintiff merely states that sometimes he has headaches and his skull swells, making it hard for him to see, as a result of the bullet lodged in his skull. He also notes that he is bipolar and he suffers from impulsive behavior. Plaintiff, however, again fails to indicate what medical services

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<sup>1</sup>Plaintiff also refers to the United States as “Corizon,” which is a provider of correctional health services. Corizon is a private company and not a governmental entity.

he has sought at the St. Louis City Justice Center. Moreover, he has not provided the Court with the names of any individuals who have purportedly denied him medical services.

Plaintiff seeks compensatory and punitive damages in this matter.

### **Discussion**

Plaintiff has filed a civil action against the United States of America asserting that he was denied medical services at the St. Louis City Justice Center. For the reasons discussed below, this action will be dismissed without prejudice.

#### **A. Plaintiff Has Failed to Name the Proper Defendant**

First and foremost, the Court must point out that the United States is not the proper defendant in this action. St. Louis City runs the St. Louis City Justice Center, not the United States of America. Moreover, although he states that he believes Corizon is a government entity, it is a private entity contracted by St. Louis City to provide medical services to inmates.

To the extent plaintiff is attempting to assert a claim for deliberate indifference to his serious medical needs against Corizon, he has failed to state a claim for relief. As noted above, plaintiff has failed to articulate exactly what medical help he sought from either Corizon or the Division of Corrections. Additionally, he has failed to specifically name an individual employed by either the Division of Corrections or Corizon who allegedly denied him medical care.<sup>2</sup>

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<sup>2</sup>To state a claim for medical mistreatment, plaintiff must plead facts sufficient to indicate a deliberate indifference to serious medical needs. *Vaughn v. Greene County*, 438 F.3d 845, 850 (8th Cir. 2006) (“Although this court has yet to establish a clear standard [for medical mistreatment] for pretrial detainees, we repeatedly have applied the same ‘deliberate indifference’ standard as is applied to Eighth Amendment claims made by convicted inmates.”); *Hartsfield v. Colburn*, 371 F.3d 454, 457 (8th Cir. 2004) (applying the Eighth Amendment deliberate indifference analysis to a pretrial detainee’s Fourteenth Amendment claim); *see also Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (Eighth Amendment); *Camberos v. Branstad*, 73 F.3d 174, 175 (8th Cir. 1995) (same). Allegations of mere negligence in giving or failing to supply medical treatment will not suffice. *Estelle*, 429 U.S. at 106. In order to show deliberate indifference, plaintiff must allege that he suffered objectively serious medical needs and that defendants actually knew of but deliberately disregarded those needs. *Vaughn*, 438 F.3d at 850.

Liability under § 1983 requires a causal link to, and direct responsibility for, the alleged deprivation of rights. *Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990); *see also Martin v. Sargent*, 780 F.2d 1334, 1338 (8th Cir. 1985) (claim not cognizable under § 1983 where plaintiff fails to allege defendant was personally involved in or directly responsible for incidents that injured plaintiff); *Boyd v. Knox*, 47 F.3d 966, 968 (8th Cir. 1995) (respondeat superior theory inapplicable in § 1983 suits). In the instant action, plaintiff has not set forth any facts indicating that a specific defendant was directly involved in or personally responsible for the alleged violations of his constitutional rights, namely denying him medical care. As a result, the complaint fails to state a claim upon which relief can be granted.

Even if St. Louis City Justice Center was owned by the United States of America (which it is not), plaintiff could not bring a claim against the United States for deliberate indifference to his medical needs, because sovereign immunity prevents the United States from being sued.

#### **B. Sovereign Immunity Prevents the United States from Being Sued**

“Generally, sovereign immunity prevents the United States from being sued without its consent.” *Iverson v. United States*, 2020 WL 5104268, at \*1 (8<sup>th</sup> Cir. 2020). *See also Hinsley v. Standing Rock Child Protective Services*, 516 F.3d 668, 671 (8<sup>th</sup> Cir. 2008) (stating that “[i]t is well settled that the United States may not be sued without its consent”). Thus, in order to sue the United States, a plaintiff must show a waiver of sovereign immunity. *See V S Ltd. Partnership v. Dep’t of Housing and Urban Development*, 235 F.3d 1109, 1112 (8<sup>th</sup> Cir. 2000). Such a waiver must be “unequivocally expressed” and “cannot be implied.” *See United States v. King*, 395 U.S. 1, 4 (1969). *See also College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd.*, 527 U.S. 666, 682 (1999) (stating that “in the context of federal sovereign immunity...it is well established that waivers are not implied”).

In this case, plaintiff has made no attempt to show that the United States has “unequivocally expressed” a waiver of its sovereign immunity. That is, nothing in the complaint indicates that the United States has consented to this type of civil action. For example, he has not alleged that his action arises under the Federal Tort Claims Act (FTCA). *See White v. United States*, 959 F.3d 328, 332 (8<sup>th</sup> Cir. 2020) (explaining that the “FTCA waives sovereign immunity and allows the government to be held liable for negligent or wrongful acts by federal employees committed while acting within the scope of their employment”); and *Barse v. United States*, 957 F.3d 883, 885 (8<sup>th</sup> Cir. 2020) (stating that “Congress has expressly waived sovereign immunity for suits against the United States by taxpayers seeking to recover tax refunds”). Because plaintiff has not shown a waiver of sovereign immunity, the United States is immune from suit, and this action must be dismissed.

Accordingly,

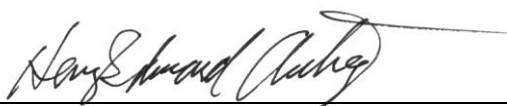
**IT IS HEREBY ORDERED** that plaintiff’s motion for leave to proceed in forma pauperis [Doc. #3] is **GRANTED**.

**IT IS FURTHER ORDERED** that the plaintiff shall pay an initial filing fee of \$1.00 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to “Clerk, United States District Court,” and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

**IT IS FURTHER ORDERED** that this action is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B).

An Order of Dismissal will accompany this Memorandum and Order.

Dated this 3<sup>rd</sup> day of June, 2021.

  
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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE